

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Timothy C. Jones, :
Plaintiff, : Case No. 2:07-cv-0254
v. : JUDGE SARGUS
Timothy Brunsman, et al., :
Defendants. :

ORDER

This matter is before the Court on the objection filed by the plaintiff, Timothy C. Jones, to the Magistrate Judge's Report and Recommendation. Pursuant to an initial screening under 28 U.S.C. §1915, the Magistrate Judge recommended that the claims against Warden Brunsman be dismissed but that the case proceed with respect to the other two defendants.

When objections are received to a magistrate judge's report and recommendation on a dispositive matter, the district judge "shall make a de novo determination of any portion of the magistrate judge's disposition to which specific written objection has been made...." Fed.R.Civ.P. 72(b). After review, the district judge "may accept, reject, or modify the recommended decision, receive further evidence, or recommit the matter to the magistrate judge with instructions." Id.; see also 28 U.S.C. §636(b)(2)(B).

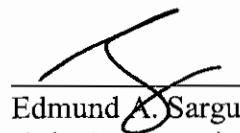
The Magistrate Judge determined that Mr. Jones is seeking to impose liability on Warden Brunsman only because of Warden Brunsman's supervisory position over the other two defendants. In his objection to the Report and Recommendation, Mr. Jones claimed that Warden Brunsman violated his constitutional rights by creating or allowing an unconstitutional policy to exist and by failing to train subordinates in the areas of discrimination, retaliation, malicious conduct, and protection against cruel and unusual punishment.

On July 27, 2007, Mr. Jones filed a motion for leave to file an amended complaint (#33). In paragraph 2 of that motion, Mr. Jones referenced his objection to the Report and Recommendation and stated his desire at that time to follow the Magistrate Judge's

recommendation and withdraw the complaint against Warden Brunsman. The Court interprets Mr. Jones' statement as a withdrawal of his objection to the Report and Recommendation.

The Court, therefore, ADOPTS the Report and Recommendation in its entirety. The claims against defendant Brunsman are hereby DISMISSED pursuant to 28 U.S.C. §§1915(e)(2) and 1915A. This case shall proceed with respect to the remaining two defendants.

Date: 2-12-08



Edmund A. Sargus, Jr.
United States District Judge